

MAINE STATE LEGISLATURE

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(EMERGENCY)
New Draft of: H. P. 889, L. D. 1023

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1382

H. P. 1232

House of Representatives, April 6, 1977

Reported by Majority of the Committee on Taxation, and 2,000 printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Repeal the Uniform Property Tax.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the education of the youth of Maine and providing funds therefor is a prime obligation of government and is essential to the preservation of the rights and liberties of the people; and

Whereas, the following legislation is vitally necessary to prevent undue hardship on those Maine citizens who are vitally interested in educating the youth of the State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 20 MRSA § 3742, as enacted by PL 1975, c. 660, § 2, is repealed and the following enacted in its place:

§ 3742. Intent

It is the intent of the Legislature to limit the burden of education costs in public schools which are borne by the property tax to no more than 50% of the total basic education allocation and to provide at least 50% of the total basic education allocation from state general fund revenue sources.

It is further the intent of the Legislature that the total basic education allocation, as annually established by the Legislature, shall be an amount sufficient to meet the level of actual education costs in the year immediately prior to the year of allocation.

It is further the intent of the Legislature to reduce the education costs in the nonprofit private schools of this State by reducing such costs to the extent and in the manner permitted by section 3748, subsection 10.

Sec. 2. 20 MRSA § 3743, sub-§ 14, as enacted by PL 1975, c. 660, § 2, is amended to read:

14. Total basic education allocation. ~~“Basic Total basic education appropriation allocation”~~ shall mean the amount for all public education programs established by the Legislature under section 3747.

Sec. 3. 20 MRSA § 3744, sub-§ 1, ¶ O, as repealed and replaced by PL 1975, c. 746, § 24-C, is repealed and the following enacted in its place:

O. Optional local funds without state participation raised under section 3748, subsection 4-A for each of the paragraphs A to K, including the 10% local portion of paragraphs C to F expended during the base year.

Sec. 4. 20 MRSA § 3747, sub-§ 6, as repealed and replaced by PL 1975, c. 754, § 2, is repealed and the following enacted in its place:

6. Establishment of the total basic education allocation. Establish the amount of money which shall be the total basic education allocation. In establishing this amount, the Legislature shall include 90% of the amounts established for subsection 3, paragraphs C, D, E and F, subparagraph (1) and subsection 4.

Sec. 5. 20 MRSA § 3747, sub-§ 8, as amended by PL 1975, c. 754, § 3, is repealed and the following enacted in its place:

8. Appropriate the funds for unit allocations. Appropriate the necessary funds to provide the allocations to local administrative units as described in section 3748.

Sec. 6. 20 MRSA § 3747, sub-§ 9 is enacted to read:

9. Designate a subsidy index. Designate a subsidy index which, if applied to the total state valuation, would raise not more than 50% of the total basic education allocation. This tax rate shall not be levied but shall be used to measure local tax efforts for purposes of adjusting allocations as provided in section 3748, subsection 3-A. The designated subsidy index for the year beginning July 1, 1977, and ending June 30, 1978, shall be 11.66 mills.

Sec. 7. 20 MRSA § 3748, sub-§ 2, 2nd sentence, as enacted by PL 1975, c. 660, § 2, is amended to read:

The sum thus obtained shall become the basis for allocation to the unit, subject to adjustments as defined under ~~subsection~~ subsections 3 and 3-A.

Sec. 8. 20 MRSA § 3748, sub-§ 3, ¶ E, 2nd sentence, as amended by PL 1975, c. 746, § 24-O, is further amended to read:

The number of pupils in excess of 3% increase shall be multiplied by the appropriate per pupil rate as established in ~~this~~ section 3747 to determine the allowable adjustment.

Sec. 9. 20 MRSA § 3748, sub-§ 3-A is enacted to read:

3-A. Adjustment for local tax effort. The sum obtained as the result of the computation of allocations under subsections 1 and 2 and the adjustments under subsection 3, paragraphs A, B and D shall be reduced by the amount of revenue that can be raised in the municipality or the municipalities constituting the district if a tax for elementary and secondary education purposes, applied to the municipality's state valuation in effect for the year in which the allocation is made, were assessed and collected at a rate which, if applied to the total state valuation would raise not more than 50% of the total basic education allocation. This rate shall be designated annually by the Legislature as provided in section 3747.

Any unit which raises less than its allocation as determined in this section and assesses and collects a tax for elementary and secondary education purposes at a rate less than the rate described in this subsection shall have its allocation reduced by the same percentage that its assessed tax rate is less than the rate described.

No municipality within an administrative unit shall be required to raise more than its portion of the unit's allocation. When any municipality within an administrative unit assesses and collects a tax at a rate as described in this subsection and raises less than its portion of the unit's allocation, the commissioner shall adjust the allocation to the unit to reflect an amount which is equivalent to the difference between the amount raised by this tax rate and the municipality's portion of the unit's allocation. For any municipality within an administrative unit, its portion of the unit's allocation shall be the same percentage of that allocation as the total resident pupils of the municipality is of the total resident pupils of the administrative unit.

Sec. 9-A. 20 MRSA § 3748, sub-§ 4, 3rd, 4th and 7th sentences, as enacted by PL 1975, c. 660, § 2, are amended to read:

Under this subsection, an administrative unit is authorized to appropriate a maximum of ~~\$50~~ \$125 per pupil per year for the pupils specified in subsection 1. The maximum levy on a municipality within an administrative unit shall not exceed ~~\$45~~ \$62.50 per pupil per mill levied on that municipality.

If the additional school levy authorized under this subsection fails to produce ~~\$45~~ \$62.50 per pupil per mill levied, the commissioner shall add to the allocation of the unit for the unit's fiscal year a sum which, when combined with the local levy under this section, shall equal ~~\$45~~ \$62.50 per pupil per mill.

Sec. 9-B. 20 MRSA § 3748, sub-§ 4, 2nd ¶, 2nd sentence, as amended by PL 1975, c. 746, § 24-R, is further amended to read:

The purpose of these appropriations is to provide that all administrative units may raise and appropriate at least ~~\$45~~ \$62.50 per pupil per mill to supplement

the adjusted allocations when necessary in the judgment of the local administrative units.

Sec. 9-C. 20 MRSA § 3748, sub-§ 4, last ¶, as enacted by PL 1975, c. 660, § 2, is repealed.

Sec. 10. 20 MRSA § 3748, sub-§ 4-A is enacted to read:

4-A. Local addition to allocation of state funds. In addition to the allocation of state funds provided by this chapter and any appropriation that may be made under subsection 4, any administrative unit may raise and expend any further funds it deems necessary for educational purposes.

Sec. 11. 20 MRSA § 3748, sub-§ 9, as enacted by PL 1975, c. 660, § 2, is repealed.

Sec. 12. 20 MRSA § 3749, as amended by PL 1975, c. 746, § 24-V, is repealed.

Sec. 13. 20 MRSA § 3750, as repealed and replaced by PL 1975, c. 746, § 24-X, is repealed and the following enacted in its place:

§ 3750. Major capital projects

In the event an administrative unit undertakes major capital projects without the approval of the State Board of Education, those projects shall meet the requirements of all other statutes and shall not be reimbursed with state funds.

Sec. 14. 36 MRSA § 451, as repealed and replaced by PL 1975, c. 660, § 5, is repealed and the following enacted in its place:

§ 451. Rate of tax

1. **Property tax for expenses of local and state government.** For necessary expenses of local and state government, the Legislature shall annually, prior to April 1st, enact legislation establishing a local and state government tax rate which shall be assessed upon each municipality and the unorganized territory. For the year beginning July 1, 1977, and ending June 30, 1978, the mill rate shall be 23.91 mills. In each municipality, the tax assessed under this subsection shall be paid when collected to the treasurer thereof to be disbursed by him for the necessary expenses of local government as determined or appropriated by the legislative body of that municipality within the purposes specified in Title 30. The tax assessed under this subsection upon the unorganized territory shall be paid to the State.

2. **Determination.** The State Tax Assessor shall determine the amount to be assessed on each municipality and the unorganized territory. The rate shall not be less than the rate of the tax designated annually by the Legislature, as described in Title 20, section 3747, subsection 9. That rate shall never exceed whatever shall from time to time be the weighted average municipal tax rate. The "weighted average municipal tax rate" means the total municipal property taxes levied statewide for the previous year, as determined by the State Tax Assessor from the annual return of municipal assessors pur-

suant to section 383, divided by the state valuation of municipalities in effect for the previous year. The valuation as determined by the State Tax Assessor, as set forth in the statement filed by him as provided by section 305, subsection 1, shall be the basis for the computation and apportionment of the tax assessed.

The method for determining the amount of state tax from each municipality in a calendar year is to add the state tax for the period January 1st to June 30th of the same calendar year to the state tax for the period July 1st to December 31st of the same calendar year. The state tax as determined for a fiscal year is to be divided by 2 to establish the amount of tax for the period July 1st to December 31st or January 1st to June 30th.

The State Tax Assessor shall, before July 1st annually, determine the amount of state tax to be assessed and collected for the year in the unorganized territory. The rate of taxation in the unorganized territory is to be determined by dividing the amount of state tax by the total valuation of taxable property in the unorganized territory on April 1st of the same year.

Sec. 15. 36 MRSA § 452, as repealed and replaced by PL 1975, c. 660, § 5, is repealed and the following enacted in its place:

§ 452. Assessment of state property tax

On July 1st annually the state tax described in section 451 is to be assessed for the fiscal year ending June 30th of the following calendar year.

As soon as practicable after April 1st annually, the State Tax Assessor shall certify to each municipality the amount of state tax due under section 451 in the current calendar year. The State Tax Assessor shall send the certification to the municipal officers of each municipality requiring them to assess the sum so certified, according to the law for the assessment of taxes and add the amount of this tax to the amount of county and municipal taxes to be by them assessed in their municipality.

Sec. 16. 36 MRSA § 453, as amended by PL 1975, c. 754, § 6, is repealed.

Sec. 17. 36 MRSA § 453-A, as enacted by PL 1975, c. 754, § 7, is repealed.

Sec. 18. 36 MRSA § 1752, sub-§ 14, as last amended by PL 1971, c. 479, is further amended by adding at the end the following new sentence:

“Sales price” shall include the amount of any excise tax levied under chapter 703.

Sec. 19. 36 MRSA § 1760, sub-§ 10 is repealed.

Sec. 20. 36 MRSA c. 367 is enacted to read:

CHAPTER 367

NUCLEAR ELECTRIC GENERATING FACILITY EXCISE TAX

§ 275I. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **Adjusted gross receipts.** "Adjusted gross receipts" means the gross receipts multiplied by the Maine apportionment factor.

2. **Gross receipts.** "Gross receipts" means all receipts of a taxpayer from the sale of electricity produced by a nuclear generating facility in the preceding taxable year.

3. **Maine apportionment factor.** The "Maine apportionment factor" means the fraction, the numerator of which is the sum of the property factor, the payroll factor and sales factor, and the denominator of which is 3.

4. **Taxpayer.** "Taxpayer" means any corporation, association or person who owns and operates a nuclear electric generating facility in this State.

5. **Taxable year.** "Taxable year" means the period from January 1st to December 31st of any year.

§ 2752. Excise tax on gross receipts

For the privilege of operating a nuclear electric generating facility within Maine there is imposed an excise tax. This excise tax shall be a percentage of the adjusted gross receipts of a nuclear generating facility received by a taxpayer during the preceding taxable year. The State Tax Assessor shall establish a percentage tax rate reasonably calculated to produce \$2.3 million in revenues for fiscal year 1977-78.

§ 2753. Incorporation of income tax law and regulations

The property factor, the payroll factor and the sales factor shall be defined according to section 5211 and income tax regulations promulgated by the Bureau of Taxation.

§ 2754. Taxpayers' returns

All taxpayers, on forms to be provided by the State Tax Assessor, shall return to the State Tax Assessor prior to April 1st following the end of a taxable year, a statement, signed by its president, treasurer or chief accounting officer, of its gross receipts, property factor, payroll factor and information upon which its gross receipts and factors are based.

§ 2755. Payment of tax

Each taxpayer shall, prior to July of each year, pay this excise tax to the State Tax Assessor.

§ 2756. Access to books

The State Tax Assessor shall have access to the books and records of any taxpayer to ascertain if the required returns are correct.

§ 2757. Sanctions

Any taxpayer who:

1. Fails to make required returns. Fails to make the required returns;
2. Fails to permit access to books or records. Fails to permit access to its books or records; or

3. **False returns.** Makes returns which the president, treasurer or chief accounting officer knows to be false; shall forfeit not less than \$5,000 nor more than \$25,000, to be recovered by civil action.

§ 2758. **Incorrect returns**

If the State Tax Assessor determines that a taxpayer's returns are incorrect, he shall either assess an additional tax or refund the amount of any overpayment.

§ 2759. **Assessment by State Tax Assessor**

If any taxpayer fails to make the returns required by section 2754, the State Tax Assessor shall make an assessment of tax upon such taxpayer.

§ 2760. **Abatement**

Any taxpayer may apply for an abatement of its tax within 30 days after the tax is due or within 30 days after the State Tax Assessor has taken action pursuant to sections 2758 and 2759.

§ 2761. **Penalty and interest**

Taxes shall become delinquent if unpaid after the date on which payment is due. Interest of 9% per year shall be charged on delinquent payments beginning on the date on which the payment becomes delinquent. A penalty of 25% per year shall be charged on delinquent payments beginning 30 days after the payments become delinquent.

§ 2762. **Lien**

The Bureau of Taxation shall have a tax lien on all real and tangible personal property owned by a taxpayer in this State to secure payment of all sums due. Any lien shall be discharged upon payment of all delinquent taxes, interest and penalties.

§ 2763. **Administration**

The State Tax Assessor shall establish all rules and regulations necessary for the efficient administration of this chapter.

Sec. 21. Appropriation. The appropriation provided for general purpose aid for local schools in 1977-78 shall be expended for the purposes listed below under Parts A and B of this section as modified by section 22.

1977-78

PART A

1. Elementary and Secondary Operating Costs	\$210,360,000
2. Special Education—costs for programs operated by the administrative units	9,032,600
3. Special Education—costs for tuition and board, excluding medical costs	4,314,600

4. Vocational Education Costs	5,680,800
5. Transportation Costs	
a. Operating	15,441,600
b. Purchase of Buses	2,827,400
6. Debt Service Costs	
a. Capital Outlay	763,900
b. Debt Service	26,750,000
Subtotal	<u>\$274,930,900</u>
Less: PL 874 Funds	1,900,000
Total—Part A	<u>\$273,030,900</u>

PART B

1. Major Capital Costs	\$ 555,000
2. Cost of Unusual Enrollment Adjustments	600,000
3. Cost of Geographic Isolation Adjustments	308,934
4. Cost of Reimbursement for Private School Transportation	217,000
5. Audit Adjustments	71,000
6. Optional Local Appropriations with State Participation-maximum state obligation	8,113,326
Total—Part B	<u>\$ 9,865,260</u>
Grand Total	<u>\$282,896,160</u>

Sec. 22. Limit of state's obligation. In the event that the state's computed obligation for any individual program contained within Part A and B exceeds the level of funding provided for that program, any unexpended balances occurring in other programs within that Part may be applied to avoid proration of payments for any individual program. Any unexpended balance from Part A or B shall not lapse but shall be carried forward to be used for the same purpose.

Sec. 23. Appropriation. There is appropriated from the General Fund to the Department of Educational and Cultural Services the sum of (\$3,086,860) for the fiscal year ending June 30, 1977, and the sum of \$152,791,460 for the fiscal year ending June 30, 1978, to carry out the purposes of this Act. The breakdown shall be as follows:

	1976-77	1977-78
EDUCATIONAL AND CULTURAL SERVICES, DEPARTMENT OF		
General purpose aid for local schools		
All Other	(\$3,086,860)	\$152,791,460

Emergency clause. In view of the emergency cited in the preamble, this Act shall be effective from July 1, 1977, to June 30, 1978.

STATEMENT OF FACT

The purpose of this new draft of L.D. 1023 is to repeal the uniform property tax and replace it with a method of allocating state funds for education which is based on both local need and locally determined tax effort.

This bill retains the present method of determining basic levels of expenditures in all the major education program categories. In addition, it retains the present method of allocating funds to local units with the exception of a final adjustment based on the locally determined tax effort of each unit.

The Legislature will annually designate a "subsidy index." This subsidy index, expressed in mills, will not be levied, but will simply be used to measure the local tax effort of each school unit in order to determine what each unit will receive in state funds.

Local units will determine their own property tax rates for education purposes. If any unit levies a tax at less than the subsidy index, its share of state funds, if any, will be reduced proportionately.

This new draft makes the following changes and additions:

1. Establishes for 1977-78 an optional local appropriation with state participation program based on \$62.50 per pupil per mill up to 2 mills, total appropriation of \$8,113,326;
2. Designates a subsidy index of 11.66 mills;
3. Establishes a local and State Government tax of 23.91 mills;
4. Removes from L.D. 1023 the appeal procedure to the State Board of Education for citizens who felt an adequate education program in their locality was not being maintained;
5. Establishes an excise tax on any nuclear electric generating facility in Maine, calculated to raise \$2.3 million;
6. Expands the sales tax so that it is levied on the sales of cigarettes, calculated to raise \$3.7 million; and
7. Appropriates for education an amount equal to \$282,896,160 based on elementary and secondary operating costs of \$210,360,000, total state share is \$152,791,460.